

Message Text

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ACTION ARA-10

INFO OCT-01 IO-03 ISO-00 CIAE-00 DODE-00 PM-03 H-01 INR-10

L-02 NSAE-00 NSC-07 PA-01 RSC-01 PRS-01 SP-02 SS-14

USIA-04 AID-05 DRC-01 /066 W
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R 102018Z OCT 74

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 654

INFO USMISSION GENEVA

USMISSION USUN NEW YORK

C O N F I D E N T I A L SANTIAGO 6216

EO 11652: GDS

TAGS: CI, PINT, SHUM

SUBJ: COURT RULES IN FAVOR OF CLODOMIRO ALMEYDA

1. "EL MERCURIO/ OCT 10 CARRIES TEXT OF RULING PREVIOUS DAY BY THREE-JUDGE PANEL OF SANTIAGO COURT OF APPEALS DISMISSING GOVT CHARGES OF MISUSE OF FUNDS BROUGHT AGAINST FORMER FOREIGN MINISTER CLODOMIRO ALMEYDA. COURT HELD THAT UNDER ARTICLES 39 AND 42 OF CONSTITUTION, SUCH CHARGES CANNOT BE BROUGHT AGAINST CABINET MINISTER UNTIL CONGRESS REMOVES HIS IMMUNITY, A MOVE WHICH WAS NOT TAKEN. NOR HAS JUNTA, WHICH NOW HAS ASSUMED POWERS PREVIOUSLY HELD BY CONGRESS, TAKEN THIS STEP. CONSEQUENTLY, FORMAL INDICTMENT ("ENCARGADO REO") OF SEPT 5 RESCINDED.

2. COURT DID NOT ADDRESS SUBSTANCE OF GOVT CHARGES AGAINST ALMEYDA, NOR IS IT CLEAR PRECISELY WHAT THEY WERE. EL MERCURIO REPORTED ON SEPT 14 THAT CHARGES STEM FROM ALMEYDA'S EXPENDITURE OF DOLLARS ABROAD DURING HIS TENURE, BUT NO MORE SPECIFIC DETAILS WERE PROVIDED.

3. PRIOR TO APPEALS COURT RULING, ALMEYDA'S LAWYER TOLD US THAT HE BELIEVED HE HAD SUCCESSFULLY REFUTED SUBSTANCE OF GOVT'S CASE AT TRIAL-JUDGE LEVEL. HE ANTICIPATED REPORTED
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DECISION OF APPEALS COURT.

4. COMMENT. TO OUR KNOWLEDGE, ALMEYDA IS FIRST PROMINENT
FIGURE OF ALLENDE ERA AGAINST WHOM LONG-RUMORED CIVIL
CHARGES HAVE BEEN BROUGHT. SHOULD BE EMPHASIZED THAT SO FAR
ENTIRE PROCESS AGAINST ALMEYDA HAS TAKEN PLACE IN REGULAR CIVI-
LIAN COURTS, AND THAT ALMEYDA REMAINS UNDER DETENTION AT RITOQUE
UNDER STATE OF SIEGE PROVISIONS. APPEARS TO US THAT, WHILE GOC
COULD GO THROUGH THE RATHER PECULIAR FORMALITY OF LIFTING ALMEYDA'S
"IMMUNITY" OR COULD BRING SECURITY CHARGES AGAINST HIM IN
MILITARY TRIBUNAL UNDER STATE OF SIEGE POWERS, GOC NOW HAS
EXCELLENT PRETEXT TO RELEASE HIM IF IT SO DESIRES.
POPPER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CORRUPTION, PRESS COMMENTS, COURT DECISIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 10 OCT 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: shawdg
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974SANTIA06216
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740289-0365
From: SANTIAGO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741056/aaaabvmi.tel
Line Count: 73
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: shawdg
Review Comment: n/a
Review Content Flags:
Review Date: 17 JUN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17 JUN 2002 by elyme>; APPROVED <13 MAR 2003 by shawdg>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COURT RULES IN FAVOR OF CLODOMIRO ALMEYDA
TAGS: PINT, SHUM, CI, (ALMEYDA, CLODOMIRO)
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005